



DEPARTMENT OF COMMERCE

International Trade Administration

[C-714-001; C-821-825]

Phosphate Fertilizers from the Kingdom of Morocco and the Russian Federation: Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on the affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing its countervailing duty orders on phosphate fertilizers from the Kingdom of Morocco (Morocco) and the Russian Federation (Russia).

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Janae Martin (Morocco) or George Ayache (Russia), AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0238 or (202) 482-2623, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 16, 2021, Commerce published its affirmative final determinations in the countervailing duty investigations of phosphate fertilizers from Morocco and Russia.<sup>1</sup> On March 31, 2021, the ITC notified Commerce of its affirmative final determinations, pursuant to sections 705(b)(1)(A)(i) and 705(d) of the Tariff Act of 1930, as amended (the Act), that an industry in

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<sup>1</sup> See *Phosphate Fertilizers from the Kingdom of Morocco: Final Affirmative Countervailing Duty Determination*, 86 FR 9482 (February 16, 2021) (*Morocco Final Determination*); see also *Phosphate Fertilizers from the Russian Federation: Final Affirmative Countervailing Duty Determination*, 86 FR 9479 (February 16, 2021) (*Russia Final Determination*).

the United States is materially injured by reason of subsidized imports of phosphate fertilizers from Morocco and Russia.<sup>2</sup>

### Scope of the Orders

The products covered by these orders are phosphate fertilizers from Morocco and Russia. For a full description of the scope of these orders, *see* the Appendix to this notice.

### Countervailing Duty Orders

On March 31, 2021, in accordance with sections 705(b)(1)(A)(i) and 705(d) of the Act, the ITC notified Commerce of its final determinations in these investigations, in which it found that an industry in the United States is materially injured by reason of subsidized imports of phosphate fertilizers from Morocco and Russia.<sup>3</sup> In accordance with section 705(c)(2) of the Act, Commerce is issuing these countervailing duty orders.

Therefore, in accordance with section 706(a) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, countervailing duties on unliquidated entries of phosphate fertilizers from Morocco and Russia entered, or withdrawn from warehouse, for consumption on or after November 30, 2020, the date of publication of the *Preliminary Determinations* in the *Federal Register*,<sup>4</sup> but will not include entries occurring after the expiration of the provisional measures period and prior to the date of publication of the ITC's final determinations in the *Federal Register*, as further described below.

### Suspension of Liquidation

In accordance with section 706 of the Act, Commerce will direct CBP to reinstitute the suspension of liquidation of phosphate fertilizers from Morocco and Russia, effective the date of publication of the ITC's notice of final determinations in the *Federal Register*, and to assess,

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<sup>2</sup> See ITC Notification Letter, Investigations, Inv. Nos. 701-TA-650-651 (Final) (March 31, 2021).

<sup>3</sup> *Id.*

<sup>4</sup> See *Phosphate Fertilizers from the Kingdom of Morocco: Preliminary Affirmative Countervailing Duty Determination*, 85 FR 76522 (November 30, 2020); *see also Phosphate Fertilizers from the Russian Federation: Preliminary Affirmative Countervailing Duty Determination*, 85 FR 76524 (November 30, 2020) (collectively, *Preliminary Determinations*).

upon further instruction by Commerce pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise. On or after the date of publication of the ITC's final injury determinations in the *Federal Register*, CBP must require, at the same time as importers would deposit estimated normal customs duties on this merchandise, a cash deposit equal to the subsidy rates noted below. These instructions suspending liquidation will remain in effect until further notice. The all-others rate applies to all producers or exporters not specifically listed below.

Company	Subsidy Rate (percent)
Morocco:	
OCP S.A. <sup>5</sup>	19.97
All Others	19.97
Russia:	
Industrial Group Phosphorite LLC <sup>6</sup>	47.05
Joint Stock Company Apatit <sup>7</sup>	9.19
All Others	17.20

### Provisional Measures

Section 703(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months. In

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<sup>5</sup> Commerce found the following companies to be cross-owned with OCP S.A.: Jorf Fertilizers Company I, Jorf Fertilizers Company II, Jorf Fertilizers Company III, Jorf Fertilizers Company IV, Jorf Fertilizers Company V, and Maroc Phosphore. *See Morocco Final Determination.*

<sup>6</sup> Commerce found the following companies to be cross-owned with Industrial Group Phosphorite LLC: Mineral and Chemical Company EuroChem, JSC; NAK Azot, JSC; EuroChem Northwest, JSC; Joint Stock Company Kovdorskyy GOK; EuroChem-Energo, LLC; EuroChem-Usolsky Potash Complex, LLC; EuroChem-BMU, LLC; JSC Nevinnomyssky Azot; and EuroChem Trading Rus, LLC. *See Russia Final Determination.*

<sup>7</sup> Commerce found the following companies to be cross-owned with Joint Stock Company Apatit: PhosAgro PJSC; PhosAgro-Belgorod LLC; PhosAgro-Don LLC; PhosAgro-Kuban LLC; PhosAgro-Kursk LLC; PhosAgro-Lipetsk LLC; PhosAgro-Orel LLC; PhosAgro-Stavropol LLC; PhosAgro-Volga LLC; PhosAgro-SeveroZapad LLC; PhosAgro-Tambov LLC; and Martynovsk AgrokhimSnab LLC. *See Russia Final Determination.*

the underlying investigations, Commerce published the *Preliminary Determinations* on November 30, 2020.<sup>8</sup> Therefore, entries of phosphate fertilizers from Morocco and Russia made on or after March 30, 2021, and prior to the date of publication of the ITC's final determinations in the *Federal Register*, are not subject to the assessment of countervailing duties due to Commerce's discontinuation of the suspension of liquidation.

In accordance with section 703(d) of the Act, Commerce will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated entries of phosphate fertilizers from Morocco and Russia entered, or withdrawn from warehouse, for consumption on or after March 30, 2021, the date on which the provisional countervailing duty measures expired, through the day preceding the date of publication of the ITC final injury determinations in the *Federal Register*. Suspension of liquidation will resume on the date of publication of the ITC final injury determinations in the *Federal Register*.

#### Notifications to Interested Parties

This notice constitutes the countervailing duty orders with respect to phosphate fertilizers from Morocco and Russia pursuant to section 706(a) of the Act. Interested parties can find a list of countervailing duty orders currently in effect at <http://enforcement.trade.gov/stats/iastats1.html>.

This order is issued and published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

Dated: April 1, 2021.

Christian Marsh,  
Acting Assistant Secretary  
for Enforcement and Compliance.

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<sup>8</sup> See *Preliminary Determinations*.



## Appendix

### Scope of the Orders

The merchandise covered by these orders is phosphate fertilizers in all physical forms (*i.e.*, solid or liquid form), with or without coating or additives such as anti-caking agents. Phosphate fertilizers in solid form are covered whether granular, prilled (*i.e.*, pelletized), or in other solid form (*e.g.*, powdered).

The covered merchandise includes phosphate fertilizers in the following forms: ammonium dihydrogenorthophosphate or monoammonium phosphate (MAP), chemical formula  $\text{NH}_4\text{H}_2\text{PO}_4$ ; diammonium hydrogenorthophosphate or diammonium phosphate (DAP), chemical formula  $(\text{NH}_4)_2\text{HPO}_4$ ; normal superphosphate (NSP), also known as ordinary superphosphate or single superphosphate, chemical formula  $\text{Ca}(\text{H}_2\text{PO}_4)_2 \cdot \text{CaSO}_4$ ; concentrated superphosphate, also known as double, treble, or triple superphosphate (TSP), chemical formula  $\text{Ca}(\text{H}_2\text{PO}_4)_2 \cdot \text{H}_2\text{O}$ ; and proprietary formulations of MAP, DAP, NSP, and TSP.

The covered merchandise also includes other fertilizer formulations incorporating phosphorous and non-phosphorous plant nutrient components, whether chemically-bonded, granulated (*e.g.*, when multiple components are incorporated into granules through, *e.g.*, a slurry process), or compounded (*e.g.*, when multiple components are compacted together under high pressure), including nitrogen, phosphate, sulfur (NPS) fertilizers, nitrogen, phosphorous, potassium (NPK) fertilizers, nitric phosphate (also known as nitrophosphate) fertilizers, ammoniated superphosphate fertilizers, and proprietary formulations thereof that may or may not include other nonphosphorous plant nutrient components. For phosphate fertilizers that contain non-phosphorous plant nutrient components, such as nitrogen, potassium, sulfur, zinc, or other non-phosphorous components, the entire article is covered, including the non-phosphorous content, provided that the phosphorous content (measured by available diphosphorous pentaoxide, chemical formula  $\text{P}_2\text{O}_5$ ) is at least 5% by actual weight.

Phosphate fertilizers that are otherwise subject to these orders are included when commingled (*i.e.*, mixed or blended) with phosphate fertilizers from sources not subject to these orders. Phosphate fertilizers that are otherwise subject to these orders are included when commingled with substances other than phosphate fertilizers subject to these orders (*e.g.*, granules containing only non-phosphate fertilizers such as potash or urea). Only the subject component of such commingled products is covered by the scope of these orders. The following products are specifically excluded from the scope of these orders:

- (1) ABC dry chemical powder preparations for fire extinguishers containing MAP or DAP in powdered form;
- (2) industrial or technical grade MAP in white crystalline form with available  $\text{P}_2\text{O}_5$  content of at least 60% by actual weight;
- (3) industrial or technical grade diammonium phosphate in white crystalline form with available  $\text{P}_2\text{O}_5$  content of at least 50% by actual weight;
- (4) liquid ammonium polyphosphate fertilizers;
- (5) dicalcium phosphate, chemical formula  $\text{CaHPO}_4$ ;
- (6) monocalcium phosphate, chemical formula  $\text{CaH}_4\text{P}_2\text{O}_8$ ;

- (7) trisodium phosphate, chemical formula  $\text{Na}_3\text{PO}_4$ ;
- (8) sodium tripolyphosphate, chemical formula  $\text{Na}_5\text{P}_3\text{O}_{10}$ ;
- (9) prepared baking powders containing sodium bicarbonate and any form of phosphate;
- (10) animal or vegetable fertilizers not containing phosphate fertilizers otherwise covered by the scope of these orders;
- (11) phosphoric acid, chemical formula  $\text{H}_3\text{PO}_4$ .

The Chemical Abstracts Service (CAS) numbers for covered phosphate fertilizers include, but are not limited to: 7722-76-1 (MAP); 7783-28-0 (DAP); and 65996-95-4 (TSP). The covered products may also be identified by Nitrogen-Phosphate- Potash composition, including but not limited to: NP 11-52-0 (MAP); NP 18-46-0 (DAP); and NP 0-46-0 (TSP).

The covered merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 3103.11.0000; 3103.19.0000; 3105.20.0000; 3105.30.0000; 3105.40.0010; 3105.40.0050; 3105.51.0000; and 3105.59.0000. Phosphate fertilizers subject to these orders may also enter under subheadings 3103.90.0010, 3105.10.0000, 3105.60.0000, 3105.90.0010, and 3105.90.0050. Although the HTSUS subheadings and CAS registry numbers are provided for convenience and customs purposes, the written description of the scope is dispositive.

[FR Doc. 2021-07170 Filed: 4/6/2021 8:45 am; Publication Date: 4/7/2021]